

EYES ONLY

20 MAR 1970

MEMORANDUM FOR THE RECORD

SUBJECT: Effect of Mexican Divorces on Certain Statutory Benefits

This memorandum reports the results of a series of conversations with the Director, Bureau of Retirement and Insurance, other representatives in BRI and with the Office of Federal Employees' Group Life Insurance concerning the action that BRI and O/FEGLI would take in settling certain statutory benefits when the situation involved a Mexican divorce.

Civil Service Retirement

BRI's current practice is to approve a survivorship annuity to the widow of an employee who died in service or to the surviving spouse of an annuitant who elected survivorship benefits even though one of the parties had, prior to the current marriage, been a party to a Mexican divorce. BRI presumes the validity of the current marriage and where there is proof, e. g., marriage certificate of the current marriage, and no indication of any contest, the annuity would be instituted. The thrust of BRI action is to approve the annuity unless the current marriage is set aside by action in a court of law. Even when there is a contest BRI requires the contesting party to go to court and have the marriage set aside.

Health Benefits

BRI representative provided little guidance on this benefit and merely indicated that it is up to the insurance carrier to decide who qualifies as a family member for health benefit purposes. Thus, with respect to the Agency's hospitalization plan, it is a matter for GEHA and Mutual of Omaha to decide who qualifies as a family member. Practically speaking, it is a matter for GEHA to decide since Mutual, as in past situations, would agree with anything GEHA decides to do.

FEGLI

O/FEGLI has a more strict procedure. When a claim is received which shows somewhere in the documentation a prior divorce, O/FEGLI requires the submission of a divorce decree. If the decree is a Mexican decree, they will attempt to determine if both parties in the divorce action were within the Mexican jurisdiction:

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1. If only one party went to Mexico and the other party is not represented in person or by a legal representative, the claim is referred to O/FEGLI's Legal Division. (It should be noted here that FEGLI is administered by the Metropolitan Life Insurance Company. Hence, all of the practices and procedures and even personnel associated with O/FEGLI matters reflect the experience of Metropolitan.)

2. If the other party is represented in person or by a legal representative, O/FEGLI will then examine the law of the parties' domicile. If there is no legal prohibition to settling the claim under the particular state law, O/FEGLI will settle the claim.

3. If the claim is being contested on some basis which could include a former spouse, O/FEGLI will interplead. They will turn the proceeds of the death benefits over to a court and let the court decide who is the proper beneficiary.


Deputy Director of Personnel
for Special Programs

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